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Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Matthew W. Baca', is written over a horizontal line.

Matthew W. Baca

Reg. No. 42,277

DILLON & YUDELL LLP

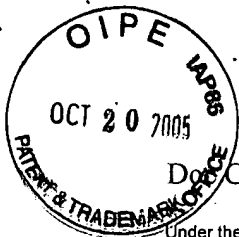
8911 N. Capital of Texas Highway

Suite 2110

Austin, Texas 78759

(512) 343-6116

ATTORNEY FOR APPELLANTS



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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

FR919990087US1

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on 10-17-05Signature Michelle SandersonTyped or printed name Michelle Sanderson

Application Number

09/665,019

Filed

09/19/2000

First Named Inventor

Olivier Hericourt

Art Unit

2145

Examiner

Adnan M. Mirza

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record.
Registration number 42,277☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____Matthew W. Baca
Signature

Matthew W. Baca

Typed or printed name

512-343-6116

Telephone number

10/17/05
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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The final Office Action dated June 16, 2005 repeats the assertion from the previous final Office Action dated April 2, 2004 that *Asano* discloses a method for setting a type of service (TOS) field in an Internet Protocol (IP) datagram. In fact, neither at col. 6, lines 39-48, nor elsewhere, does *Asano* contain any disclosure relating to setting a TOS field in an IP datagram. Applicants' setting of an IP datagram TOS field (e.g. HTTP versus FTP categorization as explained in Applicants' specification) is in contrast to *Asano's* disclosure relating to host-specific IP addressing as exemplified at col. 9, lines 32-44. In fact, *Asano* contains no description or disclosure of any kind relating to techniques for setting TOS fields of IP datagrams.

The final Office Action further incorrectly asserts that at col. 6, lines 58-76 *Asano* discloses determining whether or not an IP datagram is a socks connect message. In fact, no such determination of the character of a particular IP datagram as being a socks connect message is disclosed in this passage or anywhere in the *Asano* reference. Instead the passage at col. 6, lines 58-67 describes use of a socks server record to contain connection substitute server information when the connection substitute server is a socks server. While conceding that recognizing a sock connect message *per se* is known, Applicants point out that since neither *Asano* nor *Klaus* disclose a step of determining whether or not an IP datagram is a socks connect message, the absence of any discussion in *Asano* or *Klaus* of any such determination is logically indicative of the consequent absence of any disclosure by *Asano* or *Klaus* of any steps whatsoever performed in response to such a determination.

Regarding the steps performed responsive to a determination that the IP datagram is an IP datagram, the Office Action attempts to analogize the processing of socks IP datagrams as set forth in Applicants' claims 1, 34, and 40 to IP host address processing disclosed by *Klaus*. Pages 3 and 4 of the Office Action provide multiple references describing details of Remote Procedure Call processing without providing any clear mapping between the functions described therein and the claim elements. Instead, pages 3-4 of the Office Action offer the unsupported conclusory statements that one of ordinary skill in the art would interpret the protocol stack at the application level protocol that provides communication for socks connect messages between the origination address and destination address. Neither *Asano* nor *Klaus*, either individually or in combination, disclose or suggest any of steps of:

“in response to a determination that said IP datagram is a socks connect message,

determining from said IP datagram an Application Level protocol (ALP) transported by a socks connection;
locating from a type of service (TOS) definition table a record corresponding to said ALP of said IP datagram; and
determining from said located record a TOS value; and
subsequently writing said determined TOS value into said TOS field of said IP datagram, wherein said TOS value is based on said ALP transported by said socks connection.”

Since neither *Asano* nor *Klaus*, either individually or in combination disclose or suggest a method for setting a value within a type of service field in an IP datagram that includes a step of determining whether or not the datagram is a sock connect message and subsequently processing the datagram in a particular manner in which the value of the TOS field is correlated with the application level protocol, it follows that the rejections under U.S.C. § 103(a) are not well-founded and should be withdrawn.

Respectfully submitted,



Matthew W. Baca
Registration No. 42,277
Dillon & Yudell LLP
8911 Capital of Texas Hwy, Suite 2110
Austin, Texas 78759
(512) 343-6116
ATTORNEYS FOR APPLICANT